

Appln. No. 09/441,140
Amendment dated August 18, 2004
Reply to Office action of June 10, 2004

REMARKS

Claims 1-4 and 150-172 presently appear in this case. The present amendment is intended to supplement applicant's response of August 9, 2004. New claims 168-172 are presented herewith. In applicant's response of August 9, 2004, applicant requested that the finality of the Office action of June 10, 2004, be withdrawn. If the finality is withdrawn, then the present amendment should be entered. If the finality is not withdrawn, but the examiner agrees that claims 150-167 are in condition for allowance for the reasons explained in applicant's amendment of August 9, 2004, then the present claims should be considered and entered, as they would require no further examination, as explained in greater detail below.

I. Statements under 37 C.F.R. §1.173(c)

The following statements are made pursuant to the requirements of 37 C.F.R. §1.173(c). Patent claims 1-4 are pending and have not been changed from the language of these claims as they appeared in the patent. Added claims 5-149 have been cancelled. Claims 150-172 presently appear in this case. Claims 168-172 have been newly presented by the present paper.

Claims 168-172 are identical to previously appearing claims 162-167, except that paragraph (A) (i) provides that the antibody "is obtainable using residues 1-28 of β -amyloid as an immunogen." This language tracks the language of section (A) (i) of previously appearing claims 150 and 156.

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Reference is made to the claim support chart accompanying applicant's amendment of February 23, 2004, which includes a section specifically relating to support for this subparagraph of claims 150 and 156. Support for the remainder of claims 168-172 is the same as that presented in said claim support chart with respect the corresponding portions of claims 162-167.

II. Statement under 37 C.F.R. §1.178(b)

The present patent is not and has not been involved in any prior or concurrent proceeding, including interferences, reissues, reexaminations and litigation.

III. Supplemental Declaration under 37 C.F.R. §1.175(b) (1)

A supplemental declaration under 37 C.F.R. §1.175(b) (1) is in the process of being executed by the inventor, and will be filed as soon as possible as a supplemental amendment.

IV. Reasons for Allowability

The present supplemental amendment is being submitted solely to cover a gap in the coverage of the previously appearing set of claims. As indicated above, in the pharmaceutical formulation of claim 150 the antibody and the fragment recognize an epitope within residues 1-28 of β -amyloid, and the antibody and fragment inhibit aggregation of β -amyloid. In independent claim 156, the antibody is disclosed as being obtainable using residues 1-28 of β -amyloid as an immunogen, and it also specifies that the antibody and the fragment inhibit aggregation of β -amyloid. Claim 162

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provides that the antibody and the fragment recognize an epitope within residues 1-28 of β -amyloid (as in claim 150), and specifies that the antibody and the fragment maintain the solubility of soluble β -amyloid. New independent claim 168 specifies that the antibody is obtainable using residues 1-28 of β -amyloid as an immunogen, as was specified in claim 156, and specifies that the antibody and the fragment maintain the solubility of soluble β -amyloid, as in claim 162. Thus, all four combinations of these two characterizing features of the antibody are now covered by the claims.

No further examination is necessary for the present claims, as all of the features thereof have already been considered by the examiner during the examination of the previously appearing claims. If claims 150-167 are found to be allowable in light of applicant's amendment August 9, 2004, then the present amendment should be entered regardless of whether or not the finality of the previous official action is withdrawn, as the new claims must clearly be allowable for the same reasons that claims 150-167 were found to be allowable. Alternatively, if the finality of the official action of June 10, 2004, is withdrawn as requested in applicant's amendment of August 9, 2004, then the present supplemental amendment must be entered as a matter of right, regardless of whether or not any of the claims are found to be allowable.

If the examiner refuses to withdraw the finality of the official action of June 10, 2004, and rules that new claims cannot be considered if presented after rejection, then

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applicant's amendment of August 9, 2004, can still be entered and fully considered, even if the present supplemental amendment is not entered at the present time.

V. Oddo et al

Further support for the enablement of the present claims, i.e., that antibodies which bind specifically to an epitope within A β (1-28) can inhibit A β aggregation, can be found in Oddo et al, Neuron, 43:321-332 (August 5, 2004) (hereinafter "Oddo"), a copy of which is attached hereto. In Oddo, antibody MAB1560 (commercially available from Chemicon) and antibody 4G8 (commercially available from Signet Laboratories) (see Oddo, page 322, right-hand column) were found to clear intracellular and extracellular A β (see Oddo, page 322, left-hand column). According to the Chemicon online catalog, MAB1560 is specific for an epitope within amino acids 1-17 of A β , and according to the Signet Laboratories online catalog, 4G8 is specific for an epitope within amino acids 17-24 of A β . Copies of these pages from the Chemicon and Signet Laboratories online catalogs are attached hereto as Exhibits A and B. For the examiner's convenience, these web pages and Oddo are listed on the attached form PTO/SB/08a.

VI. Conclusion

It is submitted that all of the claims now present in the case clearly define over the references of record, and fully comply with 35 U.S.C. §112. Reconsideration and allowance, for the reasons presented in applicant's amendment

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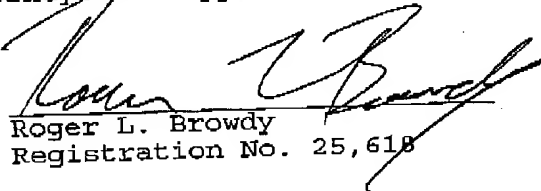
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of August 9, 2004, as supplemented by the present supplemental amendment, are therefore earnestly solicited.

Respectfully submitted,
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this supplemental amendment, along with attached PTO/SB/08a, reference (Oddo et al), Exhibit A (page from Chemicon online catalog) and Exhibit B (page from Signet Laboratories online catalog) are being facsimile transmitted to the Patent and Trademark Office, on the date shown below.

Jonathan Brammer
Name


Signature

August 18, 2004
Date